

Union Calendar No. 802

86TH CONGRESS
2D SESSION

S. 1898

[Report No. 1800]

IN THE HOUSE OF REPRESENTATIVES

AUGUST 20, 1959

Referred to the Committee on Interstate and Foreign Commerce

JUNE 13, 1960

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Communications Act of 1934 with respect to the
procedure in obtaining a license and for rehearings under
such Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 309 of the Communications Act of 1934 (47
4 U.S.C. 309) is amended to read as follows:

1 "ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS
2 ATTACHED TO LICENSES

3 "SEC. 309. ~~(a)(1)~~ No application provided for in sec-
4 tions 308, 310(b), and 325(b) for an instrument of author-
5 ization or any station in the broadcasting or common car-
6 rier services or for any station within the scope of subsection
7 ~~(c)~~ shall be granted by the Commission earlier than thirty
8 days following issuance of public notice by the Commission
9 of the acceptance for filing of such application or of any sub-
10 stantial amendment thereof: *Provided*, That this requirement
11 shall not apply to any minor amendment of any such appli-
12 cation or to any application for ~~(A)~~ minor change in the
13 facilities of an authorized station; ~~(B)~~ consent to an invol-
14 untary assignment or transfer under section 310(b) or to
15 an assignment or transfer thereunder which does not involve
16 a substantial change in ownership or control; ~~(C)~~ license un-
17 der section 319(c) or, pending application for or grant of
18 such license, any special or temporary authorization to permit
19 interim operation to facilitate completion of authorized con-
20 struction or to provide substantially the same service as would
21 be authorized by such license; ~~(D)~~ extension of time to com-
22 plete construction of authorized facilities; ~~(E)~~ authorization
23 of facilities for remote pickups, studio links and similar
24 facilities for use in the operation of a broadcast station; or ~~(F)~~
25 authorizations pursuant to section 325(b) where the pro-

1 grams to be transmitted are special events not of a continuing
2 nature, or ~~(G)~~ special temporary authorization for non-
3 broadcast operation not to exceed thirty days where no
4 application for regular operation is contemplated to be filed
5 or pending the filing of an application for such regular
6 operation or ~~(H)~~ authorization under any of the proviso
7 clauses of section 308(a).

8 “(2) Any party in interest may file a petition to deny
9 any application or amendment thereof to which the require-
10 ment of paragraph (1) of this subsection applies at any time
11 prior to the day of Commission grant thereof without hearing
12 or formal designation thereof for hearing: *Provided, That,*
13 with respect to any classification of applications, the Commis-
14 sion from time to time by rule may specify a shorter period
15 (no less than thirty days following the issuance of public
16 notice by the Commission of the acceptance for filing of such
17 application or of any substantial amendment thereof); which
18 shorter period shall be reasonably related to the time when
19 the applications would normally be reached for processing.
20 Such petition shall be served on the applicant and shall con-
21 tain specific allegations of fact sufficient to show that the
22 petitioner is a party in interest and that a grant thereof would
23 be prima facie inconsistent with subsection (b). Such alle-
24 gations of fact shall, except for those of which official notice
25 may be taken, be supported by affidavit of a person or per-

1 sons with personal knowledge thereof. The applicant shall
2 be given the opportunity to file a reply in which allegations
3 of fact or denials thereof shall similarly be supported by
4 affidavit. If the Commission finds on the basis of the appli-
5 cation, the pleadings filed, or other matters which it may offi-
6 cially notice that there are no substantial and material ques-
7 tions of fact and that a grant of the application would be
8 consistent with subsection (b), it shall make the grant, deny
9 the petition, and issue a concise statement of the reasons for
10 denying the petition which shall dispose of each substantial
11 question presented thereby. If a substantial and material
12 question of fact is presented or if the Commission for any
13 other reason is unable to find that grant of the application
14 would be consistent with subsection (b), it shall proceed as
15 provided in subsection (c).

16 “(b) Whether or not a petition to deny is filed under
17 subsection (a), the Commission shall examine each applica-
18 tion provided for in section 308. If upon examination of
19 any such application provided for in section 308 and upon
20 consideration of any such petition and any reply thereto or
21 such other matters as the Commission may officially notice
22 the Commission shall find that public interest, convenience,
23 and necessity would be served by the granting thereof, it
24 shall grant such application.

25 “(c) If upon examination of any such application, peti-

1 tion to deny or reply thereto or such other matters as the
2 Commission may officially notice the Commission is unable
3 to make the finding specified in subsection (b), it shall for-
4 mally designate the application for hearing on the ground or
5 reasons then obtaining and shall forthwith notify the appli-
6 cant and all other known parties in interest of such action
7 and the grounds and reasons therefor, specifying with par-
8 ticularity the matters and things in issue but not including
9 issues or requirements phrased generally: *Provided, That,*
10 if the Commission finds that by first giving the applicant and
11 other known parties in interest notice of all objections to such
12 application and an opportunity to reply thereto a determina-
13 tion of the application may be expedited, it shall forthwith
14 give such notice and opportunity for reply before formally
15 designating the application for hearing. The parties in inter-
16 est, if any, who are not notified by the Commission of its
17 action with respect to a particular application, may acquire
18 the status of a party to the proceeding thereon by filing a
19 petition for intervention showing the basis for their interest
20 at any time not less than ten days prior to the date of hearing.
21 Any hearing subsequently held upon such application shall be
22 a full hearing in which the applicant and all other parties in
23 interest shall be permitted to participate. The burden of
24 proceeding with the introduction of evidence and the burden
25 of proof shall be upon the applicant, except that with respect

1 to any issue presented by a petition to deny or a petition
2 to enlarge the issues, such burdens shall be as determined by
3 the Commission.

4 “(d) When an application subject to subsection (a)
5 has been filed, the Commission, notwithstanding the require-
6 ments thereof, may, if otherwise authorized by law and if it
7 finds that there are extraordinary circumstances requiring
8 emergency operations in the public interest and that delay in
9 the institution of such emergency operations would seriously
10 prejudice the public interest, grant a temporary authoriza-
11 tion, accompanied by a statement of its reasons therefor, to
12 permit such emergency operations for a period not exceeding
13 ninety days, and upon making like findings may extend such
14 temporary authorization for one additional period not to
15 exceed ninety days. When any such grant is made, the Com-
16 mission shall give expeditious treatment to any timely filed
17 petition to deny such application and to any petition for
18 rehearing of such grant filed under section 405.

19 “(e) The stations other than in the broadcasting or
20 common carrier service referred to in subsection (a) are (1)
21 fixed point-to-point microwave stations, but not including
22 control and relay stations used as integral parts of mobile
23 radio systems, (2) industrial radio positioning stations for
24 which frequencies are assigned on an exclusive basis, (3)
25 aeronautical en route stations, (4) aeronautical advisory

1 stations, ~~(5)~~ airdrome control stations, ~~(6)~~ aeronautical
 2 fixed stations, and ~~(7)~~ such other stations or classes of sta-
 3 tions as the Commission by rule provides.

4 “~~(f)~~ The Commission is authorized to adopt by rule
 5 reasonable classifications of applications and amendments in
 6 order to effectuate the purposes of this section.

7 “~~(g)~~ Such station licenses as the Commission may grant
 8 shall be in such general form as it may prescribe, but each
 9 license shall contain, in addition to other provisions, a state-
 10 ment of the following conditions to which such license shall
 11 be subject: ~~(1)~~ The station license shall not vest in the
 12 licensee any right to operate the station nor any right in the
 13 use of the frequencies designated in the license beyond the
 14 term thereof nor in any other manner than authorized
 15 therein; ~~(2)~~ neither the license nor the right granted there-
 16 under shall be assigned or otherwise transferred in violation
 17 of this Act; ~~(3)~~ every license issued under this Act shall be
 18 subject in terms to the right of use or control conferred by
 19 section 606 hereof.”

20 SEC. 2. Section 319~~(e)~~ of the Communications Act of
 21 1934 ~~(47 U.S.C. 319(e))~~ is amended by striking out “and
 22 ~~(e)~~” and inserting in lieu thereof “~~(e)~~, ~~(d)~~, and ~~(e)~~”.

23 SEC. 3. Section 405 of the Communications Act of 1934
 24 ~~(47 U.S.C. 405)~~ is amended—

(1) by striking out "and party" in the first sentence and inserting in lieu thereof "any party", and

(2) by inserting after the fourth sentence a new sentence as follows: "The Commission shall enter an order, with a concise statement of the reasons therefor, denying a petition for rehearing or granting such petition, in whole or in part, and ordering such further proceedings as may be appropriate: *Provided*, That in any case where such petition relates to an instrument of authorization granted without a hearing, the Commission shall take such action within ninety days of the filing of such petition."

SHORT TITLE

SECTION 1. This Act may be cited as the "Communications Act Amendments, 1960".

SHORT-TERM GRANTS

SEC. 2. Subsection (d) of section 307 of the Communications Act of 1934 (47 U.S.C. 307) is amended by adding at the end thereof a new sentence as follows: "Consistently with the foregoing provisions of this subsection, the Commission may by rule prescribe the period or periods for which licenses shall be granted and renewed for particular classes of stations, but the Commission may not adopt or follow any rule which would preclude it, in any case involving a station of a particular class, from granting or renewing a

1 *license for a shorter period than that prescribed for stations*
 2 *of such class if, in its judgment, public interest, convenience,*
 3 *or necessity would be served by such action."*

4 *PRE-GRANT PROCEDURE*

5 *SEC. 3. (a) Section 309 of the Communications Act of*
 6 *1934 (47 U.S.C. 309) is amended to read as follows:*

7 *"ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS*

8 *ATTACHED TO LICENSES*

9 *"SEC. 309. (a) Subject to the provisions of this section,*
 10 *the Commission shall determine, in the case of each applica-*
 11 *tion filed with it to which section 308 applies, whether the*
 12 *public interest, convenience, and necessity will be served by*
 13 *the granting of such application, and, if the Commission,*
 14 *upon examination of such application and upon considera-*
 15 *tion of such other matters as the Commission may officially*
 16 *notice, shall find that public interest, convenience, and neces-*
 17 *sity would be served by the granting thereof, it shall grant*
 18 *such application.*

19 *"(b) Except as provided in subsection (c) of this sec-*
 20 *tion, no such application—*

21 *"(1) for an instrument of authorization in the case*
 22 *of a station in the broadcasting or common carrier serv-*
 23 *ices, or*

1 “(2) for an instrument of authorization in the case
2 of a station in any of the following categories:

3 “(A) fixed point-to-point microwave stations
4 (exclusive of control and relay stations used as in-
5 tegral parts of mobile radio systems),

6 “(B) industrial radio positioning stations for
7 which frequencies are assigned on an exclusive basis,

8 “(C) aeronautical en route stations,

9 “(D) aeronautical advisory stations,

10 “(E) airdrome control stations,

11 “(F) aeronautical fixed stations, and

12 “(G) such other stations or classes of stations,
13 not in the broadcasting or common carrier services,
14 as the Commission shall by rule prescribe,

15 shall be granted by the Commission earlier than thirty days
16 following issuance of public notice by the Commission of the
17 acceptance for filing of such application or of any substantial
18 amendment thereof.

19 “(c) Subsection (b) of this section shall not apply—

20 “(1) to any minor amendment of an application to
21 which such subsection is applicable, or

22 “(2) to any application for—

23 “(A) a minor change in the facilities of an
24 authorized station,

25 “(B) consent to an involuntary assignment or

1 *transfer under section 310(b) or to an assignment*
2 *or transfer thereunder which does not involve a sub-*
3 *stantial change in ownership or control,*

4 “(C) a license under section 319(c) or, pend-
5 *ing application for or grant of such license, any*
6 *special or temporary authorization to permit interim*
7 *operation to facilitate completion of authorized con-*
8 *struction or to provide substantially the same service*
9 *as would be authorized by such license,*

10 “(D) extension of time to complete construction
11 *of authorized facilities,*

12 “(E) an authorization of facilities for remote
13 *pickups, studio links and similar facilities for use*
14 *in the operation of a broadcast station,*

15 “(F) authorizations pursuant to section 325(b)
16 *where the programs to be transmitted are special*
17 *events not of a continuing nature,*

18 “(G) a special temporary authorization for
19 *nonbroadcast operation not to exceed thirty days*
20 *where no application for regular operation is con-*
21 *templated to be filed or pending the filing of an*
22 *application for such regular operation, or*

23 “(H) an authorization under any of the proviso
24 *clauses of section 308(a).*

25 “(d)(1) Any party in interest may file with the Com-

1 mission a petition to deny any application (whether as
2 originally filed or as amended) to which subsection (b) of
3 this section applies at any time prior to the day of Com-
4 mission grant thereof without hearing or the day of formal
5 designation thereof for hearing; except that with respect to
6 any classification of applications, the Commission from time
7 to time by rule may specify a shorter period (no less than
8 thirty days following the issuance of public notice by the
9 Commission of the acceptance for filing of such application
10 or of any substantial amendment thereof), which shorter
11 period shall be reasonably related to the time when the appli-
12 cations would normally be reached for processing. The
13 petitioner shall serve a copy of such petition on the applicant.
14 The petition shall contain specific allegations of fact suffi-
15 cient to show that the petitioner is a party in interest and
16 that a grant of the application would be prima facie incon-
17 sistent with subsection (a). Such allegations of fact shall,
18 except for those of which official notice may be taken, be
19 supported by affidavit of a person or persons with personal
20 knowledge thereof. The applicant shall be given the oppor-
21 tunity to file a reply in which allegations of fact or denials
22 thereof shall similarly be supported by affidavit.

23 “(2) If the Commission finds on the basis of the appli-
24 cation, the pleadings filed, or other matters which it may offi-
25 cially notice that there are no substantial and material ques-

1 tions of fact and that a grant of the application would be
2 consistent with subsection (a), it shall make the grant,
3 deny the petition, and issue a concise statement of the reasons
4 for denying the petition, which statement shall dispose of all
5 substantial issues raised by the petition. If a substantial and
6 material question of fact is presented or if the Commission for
7 any reason is unable to find that grant of the application
8 would be consistent with subsection (a), it shall proceed as
9 provided in subsection (e).

10 “(e) If, in the case of any application to which subsection
11 (a) of this section applies, a substantial and material question
12 of fact is presented or the Commission for any reason is un-
13 able to make the finding specified in such subsection, it shall
14 formally designate the application for hearing on the ground
15 or reasons then obtaining and shall forthwith notify the
16 applicant and all other known parties in interest of such
17 action and the grounds and reasons therefor, specifying
18 with particularity the matters and things in issue but
19 not including issues or requirements phrased generally.
20 When the Commission has so designated an application
21 for hearing the parties in interest, if any, who are not
22 notified by the Commission of such action may acquire the
23 status of a party to the proceeding thereon by filing a peti-
24 tion for intervention showing the basis for their interest at
25 any time not less than ten days prior to the date of hearing.

1 *Any hearing subsequently held upon such application shall be*
2 *a full hearing in which the applicant and all other parties in*
3 *interest shall be permitted to participate. The burden of*
4 *proceeding with the introduction of evidence and the burden*
5 *of proof shall be upon the applicant, except that with respect*
6 *to any issue presented by a petition to deny or a petition*
7 *to enlarge the issues, such burdens shall be as determined by*
8 *the Commission.*

9 “(f) *When an application subject to subsection (b)*
10 *has been filed, the Commission, notwithstanding the require-*
11 *ments of such subsection, may, if the grant of such applica-*
12 *tion is otherwise authorized by law and if it finds that there*
13 *are extraordinary circumstances requiring emergency opera-*
14 *tions in the public interest and that delay in the institution of*
15 *such emergency operations would seriously prejudice the public*
16 *interest, grant a temporary authorization, accompanied by a*
17 *statement of its reasons therefor, to permit such emergency*
18 *operations for a period not exceeding ninety days, and upon*
19 *making like findings may extend such temporary authoriza-*
20 *tion for one additional period not to exceed ninety days.*
21 *When any such grant of a temporary authorization is made,*
22 *the Commission shall give expeditious treatment to any timely*
23 *filed petition to deny such application and to any petition for*
24 *rehearing of such grant filed under section 405.*

25 “(g) *The Commission is authorized to adopt reasonable*

1 classifications of applications and amendments in order to
2 effectuate the purposes of this section.

3 “(h) Such station licenses as the Commission may grant
4 shall be in such general form as it may prescribe, but each
5 license shall contain, in addition to other provisions, a state-
6 ment of the following conditions to which such license shall
7 be subject: (1) The station license shall not vest in the
8 licensee any right to operate the station nor any right in the
9 use of the frequencies designated in the license beyond the
10 term thereof nor in any other manner than authorized
11 therein; (2) neither the license nor the right granted there-
12 under shall be assigned or otherwise transferred in violation
13 of this Act; (3) every license issued under this Act shall be
14 subject in terms to the right of use or control conferred by
15 section 606 of this Act.”

16 (b) Section 319(c) of the Communications Act of
17 1934 (47 U.S.C. 319(c)) is amended by striking out “and
18 (c)” and inserting in lieu thereof “(c), (d), (e), (f), and
19 (g)”.

20 (c) Section 405 of the Communications Act of 1934
21 (47 U.S.C. 405) is amended—

22 (1) by striking out “and party” in the first sentence
23 and inserting in lieu thereof “any party”, and

24 (2) by inserting after the fourth sentence a new
25 sentence as follows: “The Commission shall enter an

1 *order, with a concise statement of the reasons therefor,*
2 *denying a petition for rehearing or granting such peti-*
3 *tion, in whole or in part, and ordering such further pro-*
4 *ceedings as may be appropriate: Provided, That in any*
5 *case where such petition relates to an instrument of*
6 *authorization granted without a hearing, the Commis-*
7 *sion shall take such action within ninety days of the*
8 *filing of such petition."*

9 *(d)(1) Subsections (a) and (b) of this section shall*
10 *take effect ninety days after the date of the enactment of this*
11 *Act.*

12 *(2) Section 309 of the Communications Act of 1934*
13 *(as amended by subsection (a) of this section) shall apply to*
14 *any application to which section 308 of such Act applies*
15 *(A) which is filed on or after the effective date of subsection*
16 *(a) of this section, (B) which is filed before such effective*
17 *date, but is substantially amended on or after such effective*
18 *date, or (C) which is filed before such effective date and*
19 *is not substantially amended on or after such effective date,*
20 *but with respect to which the Commission by rule provides*
21 *reasonable opportunity to file petitions to deny in accordance*
22 *with section 309 of such Act (as amended by subsection (a)*
23 *of this section).*

24 *(3) Section 309 of the Communications Act of 1934,*
25 *as in effect immediately before the effective date of subsection*
26 *(a) of this section, shall, on and after such effective date,*

1 apply only to applications to which section 308 of such Act
 2 apply which are filed before such effective date and not sub-
 3 stantially amended on or after such effective date and with
 4 respect to which the Commission does not permit petitions to
 5 deny to be filed as provided in clause (C) of paragraph (2)
 6 of this subsection.

7 (4) The amendment made by paragraph (2) of sub-
 8 section (c) of this section shall only apply to petitions for
 9 rehearing filed on or after the date of the enactment of this
 10 Act.

11 LOCAL NOTICE AND LOCAL HEARINGS; PAY-OFFS

12 SEC. 4. (a) Section 311 of the Communications Act
 13 of 1934 (47 U.S.C. 311) is amended to read as follows:

14 "SPECIAL REQUIREMENTS WITH RESPECT TO CERTAIN
 15 APPLICATIONS IN THE BROADCASTING SERVICE

16 "SEC. 311. (a) When there is filed with the Commis-
 17 sion any application to which section 309(b)(1) applies,
 18 for an instrument of authorization for a station in the broad-
 19 casting service, the applicant—

20 "(1) shall give notice of such filing in the principal
 21 area which is served or is to be served by the station; and

22 "(2) if the application is formally designated for
 23 hearing in accordance with section 309, shall give notice
 24 of such hearing in such area at least ten days before com-
 25 mencement of such hearing.

1 *The Commission shall by rule prescribe the form and content*
2 *of the notices to be given in compliance with this subsection,*
3 *and the manner and frequency with which such notices shall*
4 *be given.*

5 “(b) *Hearings referred to in subsection (a) may be*
6 *held at such places as the Commission shall determine to be*
7 *appropriate, and in making such determination in any case*
8 *the Commission shall consider whether the public interest,*
9 *convenience, or necessity will be served by conducting the*
10 *hearing at a place in, or in the vicinity of, the principal area*
11 *to be served by the station involved.*

12 “(c)(1) *If there are pending before the Commission*
13 *two or more applications for a permit for construction of a*
14 *broadcasting station, only one of which can be granted, it shall*
15 *be unlawful, without approval of the Commission, for the*
16 *applicants or any of them to effectuate an agreement whereby*
17 *one or more of such applicants withdraws his or their appli-*
18 *cation or applications.*

19 “(2) *The request for Commission approval in any such*
20 *case shall be made in writing jointly by all the parties to*
21 *the agreement. Such request shall contain or be accompanied*
22 *by full information with respect to the agreement, set forth in*
23 *such detail, form, and manner as the Commission shall by*
24 *rule require.*

25 “(3) *The Commission shall approve the agreement only*

1 if it determines that the agreement is consistent with the public
2 interest, convenience, or necessity. If the agreement does not
3 contemplate a merger, but contemplates the making of any
4 direct or indirect payment to any party thereto in considera-
5 tion of his withdrawal of his application, the Commission
6 may determine the agreement to be consistent with the public
7 interest, convenience, or necessity only if the amount or value
8 of such payment, as determined by the Commission, is not
9 in excess of the aggregate amount determined by the Com-
10 mission to have been legitimately and prudently expended
11 and to be expended by such applicant in connection with pre-
12 paring, filing, and advocating the granting of his application.

13 “(4) For the purposes of this subsection an application
14 shall be deemed to be ‘pending’ before the Commission from
15 the time such application is filed with the Commission until
16 an order of the Commission granting or denying it is no
17 longer subject to rehearing by the Commission or to review
18 by any court.”

19 (b) Section 313 of such Act (47 U.S.C. 313) is
20 amended—

21 (1) by inserting after the word “LAWS” in the heading
22 of such section the following: “; REFUSAL OF LICENSES AND
23 PERMITS IN CERTAIN CASES”; and

1 (2) by inserting "(a)" after "SEC. 313." and adding
2 at the end of such section the following subsection:

3 “(b) The Commission is hereby directed to refuse a sta-
4 tion license and/or the permit hereinafter required for the
5 construction of a station to any person (or to any person
6 directly or indirectly controlled by such person) whose license
7 has been revoked by a court under this section.”

8 SUSPENSION, REVOCATION, AND CEASE AND DESIST

9 ORDERS

10 SEC. 5. (a) Section 312 of the Communications Act of
11 1934 (47 U.S.C. 312) is amended to read as follows:

12 “ADMINISTRATIVE SANCTIONS

13 “SEC. 312. (a) The Commission may revoke any station
14 license or construction permit—

15 “(1) for false statements knowingly made either in
16 the application or in any statement of fact which may
17 be required pursuant to section 308;

18 “(2) because of conditions coming to the attention
19 of the Commission which would warrant it in refusing to
20 grant a license or permit on an original application;

21 “(3) for willful or repeated failure to operate sub-
22 stantially as set forth in the license;

23 “(4) for willful or repeated violation of, or willful
24 or repeated failure to observe any provision of this Act
25 or any rule or regulation of the Commission authorized
26 by this Act or by a treaty ratified by the United States;

1 “(5) for violation of or failure to observe any cease
2 and desist order issued by the Commission under this
3 section; or

4 “(6) for violation of section 1304, 1343, or 1464
5 of title 18 of the United States Code.

6 “(b) Where any person (1) has failed to operate sub-
7 stantially as set forth in a license, (2) has violated or
8 failed to observe any of the provisions of this Act, or section
9 1304, 1343, or 1464 of title 18 of the United States Code,
10 or (3) has violated or failed to observe any rule or regulation
11 of the Commission authorized by this Act or by a treaty rati-
12 fied by the United States, the Commission may order such
13 person to cease and desist from such action.

14 “(c) The Commission may suspend any station license
15 for a period of not more than ten consecutive days—

16 “(1) for false statements made either in the ap-
17 plication or in any statement of fact which may be
18 required pursuant to section 308;

19 “(2) because of conditions coming to the attention
20 of the Commission which would warrant it in refusing to
21 grant a license on an original application;

22 “(3) for failure to operate substantially as set forth
23 in the license;

24 “(4) for violation of or failure to observe any pro-
25 vision of this Act or any rule or regulation of the Com-

1 mission authorized by this Act or by a treaty ratified
2 by the United States;

3 “(5) for violation of or failure to observe any cease
4 and desist order issued by the Commission under this
5 section; or

6 “(6) for violation of section 1304, 1343, or 1464
7 of title 18 of the United States Code.

8 “(d) Before revoking a license or permit pursuant
9 to subsection (a), issuing a cease and desist order pursuant
10 to subsection (b), or suspending a license pursuant to sub-
11 section (c), the Commission shall serve upon the licensee,
12 permittee, or person involved an order to show cause why
13 an order of revocation or suspension or a cease and desist
14 order should not be issued. Any such order to show cause
15 shall contain a statement of the matters with respect to which
16 the Commission is inquiring and shall call upon the licensee,
17 permittee, or person to appear before the Commission at a
18 time and place stated in the order, but in no event less than
19 thirty days after the receipt of such order, and give evidence
20 upon the matter specified therein; except that where safety of
21 life or property is involved, the Commission may provide in
22 the order for a shorter period. If after hearing, or a waiver
23 thereof, the Commission determines that an order of revocation
24 or suspension or a cease and desist order should issue, it shall

1 issue such order, which shall include a statement of the find-
2 ings of the Commission and the grounds and reasons therefor
3 and specify the effective date of the order, and shall cause
4 the same to be served on said licensee, permittee, or person.

5 “(e) In any case where a hearing is conducted pursuant
6 to the provisions of this section, both the burden of proceed-
7 ing with the introduction of evidence and the burden of
8 proof shall be upon the Commission.

9 “(f) The provisions of section 9(b) of the Administra-
10 tive Procedure Act which apply with respect to the institution
11 of any proceeding for the suspension or revocation of a
12 license or permit shall apply also with respect to the institu-
13 tion, under this section, of any proceeding for the issuance
14 of a cease and desist order.”

15 (b) The first sentence of section 307(d) of the Commu-
16 nications Act of 1934 (47 U.S.C. 307(d)) is amended by
17 inserting “suspended or” before “revoked”.

18 (c) The second sentence of section 308(b) of such Act
19 (47 U.S.C. 308(b)) is amended by inserting “suspended or”
20 before “revoked”.

21 (d) Section 402(b)(5) of such Act (47 U.S.C.
22 402(b)(5)) is amended by inserting “, suspended,” after
23 “modified”.

1 FORFEITURE PROVISIONS RELATING TO BROADCAST

2 LICENSEES

3 SEC. 6. (a) Section 503 of the Communications Act of
4 1934 (47 U.S.C. 503) is amended (1) by striking out the
5 center heading and inserting in lieu thereof "Forfeitures";
6 (2) by inserting "(a)" after "SEC. 503."; and (3) by
7 adding at the end thereof the following subsection:

8 "(b) In any case where the licensee or permittee of a
9 broadcast station has failed to operate his station substantially
10 as set forth in his license, or has violated or failed to observe
11 any of the provisions of this Act or any rule or regulation
12 of the Commission authorized by this Act or by any treaty
13 ratified by the United States, or has violated or failed
14 to observe any cease and desist order issued by the Com-
15 mission, the Commission may order such licensee or
16 permittee to forfeit to the United States a sum not to exceed
17 \$1,000 for each day during which the Commission finds that
18 such violation or failure has occurred. Such forfeiture shall
19 be in addition to any other penalty provided by this Act."

20 (b) Section 504(b) of such Act is amended by striking
21 out "section 507" and inserting in lieu thereof "sections
22 503(b) and 507".

1 PROVISIONS REQUIRING ANNOUNCEMENTS AND DISCLO-
2 SURE OF CERTAIN PAYMENTS WITH RESPECT TO
3 MATTER BROADCAST

4 SEC. 7. (a) Section 317 of the Communications Act of
5 1934 (47 U.S.C. 317) is amended to read as follows:

6 "ANNOUNCEMENT WITH RESPECT TO CERTAIN MATTER
7 BROADCAST

8 "SEC. 317. (a)(1) All matter broadcast by any radio
9 station for which any money, service or other valuable con-
10 sideration is directly or indirectly paid, or promised to or
11 charged or accepted by, the station so broadcasting, from any
12 person, shall, at the time the same is so broadcast, be an-
13 nounced as paid for or furnished, as the case may be, by
14 such person: Provided, That 'service or other valuable con-
15 sideration' shall not include any service or property furnished
16 without charge or at a nominal charge for use on, or in con-
17 nection with, a broadcast unless it is so furnished in consider-
18 ation for an identification in a broadcast of any person,
19 product, service, trademark, or brand name beyond an iden-
20 tification which is reasonably related to the use of such service
21 or property on the broadcast.

22 "(2) Nothing in this section shall preclude the Commis-
23 sion from requiring that an appropriate announcement shall

1 *be made at the time of the broadcast in the case of any political*
2 *program or any program involving the discussion of any con-*
3 *troversial issue for which any films, records, transcriptions,*
4 *talent, scripts, or other material or service of any kind have*
5 *been furnished, without charge or at a nominal charge, di-*
6 *rectly or indirectly, as an inducement to the broadcast of such*
7 *program.*

8 “(b) *In any case where a report has been made to a*
9 *radio station, as required by section 508 of this Act, of*
10 *circumstances which would have required an announcement*
11 *under this section had the consideration been received by such*
12 *radio station, an appropriate announcement shall be made*
13 *by such radio station.*

14 “(c) *The licensee of each radio station shall exercise*
15 *reasonable diligence to obtain from its employees, and from*
16 *other persons with whom it deals directly in connection with*
17 *any program or program matter for broadcast, information*
18 *to enable such licensee to make the announcement required*
19 *by this section.*

20 “(d) *The Commission may waive the requirement of an*
21 *announcement as provided in this section in any case or class*
22 *of cases with respect to which it determines that the public*
23 *interest, convenience, or necessity does not require the broad-*
24 *casting of such announcement.*

1 “(e) The Commission shall prescribe appropriate rules
2 and regulations to carry out the provisions of this section.”

3 (b) Title V of the Communications Act of 1934 (47
4 U.S.C., subchapter V) is amended by adding at the end
5 thereof the following section:

6 “DISCLOSURE OF CERTAIN PAYMENTS

7 “SEC. 508. (a) Subject to subsection (d), any em-
8 ployee of a radio station who accepts or agrees to accept from
9 any person (other than such station), or any person (other
10 than such station) who pays or agrees to pay such employee,
11 any money, service or other valuable consideration for the
12 broadcast of any matter over such station shall, in advance of
13 such broadcast, disclose the fact of such acceptance or agree-
14 ment to such station.

15 “(b) Subject to subsection (d), any person who, in con-
16 nection with the production or preparation of any program
17 or program matter which is intended for broadcasting over
18 any radio station, accepts or agrees to accept, or pays or
19 agrees to pay, any money, service or other valuable consid-
20 eration for the inclusion of any matter as a part of such
21 program or program matter, shall, in advance of such broad-
22 cast, disclose the fact of such acceptance or payment or agree-
23 ment to the payee’s employer, or to the person for whom such

1 program or program matter is being produced, or to the
2 licensee of such station over which such program is broadcast.

3 “(c) Subject to subsection (d), any person who sup-
4 plies to any other person any program or program matter
5 which is intended for broadcasting over any radio station
6 shall, in advance of such broadcast, disclose to such other
7 person any information of which he has knowledge, or which
8 has been disclosed to him, as to any money, service or other
9 valuable consideration which any person has paid or ac-
10 cepted, or has agreed to pay or accept, for the inclusion of
11 any matter as a part of such program or program matter.

12 “(d) The provisions of this section requiring the dis-
13 closure of information shall not apply in any case where,
14 because of a waiver made by the Commisison under section
15 317(d), an announcement is not required to be made under
16 section 317. The inclusion in the program of the announce-
17 ment required by section 317 shall constitute the disclosure
18 required by this section.

19 “(e) The term ‘service or other valuable consideration’
20 as used in this section shall not include any service or prop-
21 erty furnished without charge or at a nominal charge for use
22 on, or in connection with, a broadcast, or for use on a
23 program which is intended for broadcasting over any
24 radio station, unless it is so furnished in consideraton for

1 *an identification in such broadcast or in such program of any*
 2 *person, product, service, trademark, or brand name beyond*
 3 *an identification which is reasonably related to the use of such*
 4 *service or property in such broadcast or such program.*

5 “(f) *Any person who violates any provision of this*
 6 *section shall, for each such violation, be fined not more than*
 7 *\$10,000 or imprisoned not more than one year, or both.*”

8 *DECEPTIVE CONTESTS*

9 *SEC. 8. Title V of the Communications Act of 1934 (47*
 10 *U.S.C., subchapter V), as amended by section 7(b) of this*
 11 *Act, is further amended by adding at the end thereof the*
 12 *following section:*

13 “*PROHIBITED PRACTICES IN CASE OF CONTESTS OF IN-*
 14 *TELLECTUAL KNOWLEDGE, INTELLECTUAL SKILL, OR*
 15 *CHANCE*”

16 “*SEC. 509. (a) It shall be unlawful for any person,*
 17 *with intent to deceive the listening or viewing public—*

18 “*(1) To supply to any contestant in a purportedly*
 19 *bona fide contest of intellectual knowledge or intellectual*
 20 *skill any special and secret assistance whereby the out-*
 21 *come of such contest will be in whole or in part pre-*
 22 *arranged or predetermined.*

23 “*(2) By means of persuasion, bribery, intimidat-*
 24 *ion, or otherwise, to induce or cause any contestant in*

1 *a purportedly bona fide contest of intellectual knowledge*
2 *or intellectual skill to refrain in any manner from using*
3 *or displaying his knowledge or skill in such contest,*
4 *whereby the outcome thereof will be in whole or in part*
5 *prearranged or predetermined.*

6 *“(3) To engage in any artifice or scheme for the*
7 *purpose of prearranging or predetermining in whole or*
8 *in part the outcome of a purportedly bona fide contest of*
9 *intellectual knowledge, intellectual skill, or chance.*

10 *“(4) To produce or participate in the production*
11 *for broadcasting of, to broadcast or participate in the*
12 *broadcasting of, to offer to a licensee for broadcasting,*
13 *or to sponsor, any radio program, knowing or having*
14 *reasonable ground for believing that, in connection with*
15 *a purportedly bona fide contest of intellectual knowledge,*
16 *intellectual skill, or chance constituting any part of such*
17 *program, any person has done or is going to do any*
18 *act or thing referred to in paragraph (1), (2), or (3)*
19 *of this subsection.*

20 *“(5) To conspire with any other person or per-*
21 *sons to do any act or thing prohibited by paragraph*
22 *(1), (2), (3), or (4) of this subsection, if one or more*
23 *of such persons do any act to effect the object of such*
24 *conspiracy.*

1 “(b) For the purposes of this section—

2 “(1) The term ‘contest’ means any contest broad-
3 cast by a radio station in connection with which any
4 money or any other thing of value is offered as a prize or
5 prizes to be paid or presented by the program sponsor
6 or by any other person or persons, as announced in the
7 course of the broadcast.

8 “(2) The term ‘the listening or viewing public’
9 means those members of the public who, with the aid of
10 radio receiving sets, listen to or view programs broad-
11 cast by radio stations.

12 “(c) Whoever violates subsection (a) shall be fined
13 not more than \$10,000 or imprisoned not more than one
14 year, or both.”

Amend the title so as to read: “An Act to promote the public interest by amending the Communications Act of 1934, to provide a pre-grant procedure in case of certain applications; to impose limitations on payoffs between applicants; to grant authority to suspend station licenses; to require disclosure of payments made for the broadcasting of certain matter; to grant authority to impose forfeitures in the broadcast service; and to prohibit deceptive practices in contests of intellectual knowledge, skill, or chance; and for other purposes.”

Passed the Senate August 19 (legislative day, August 18), 1959.

Attest:

FELTON M. JOHNSTON,

Secretary.

Union Calendar No. 802

86TH CONGRESS
2D SESSION

S. 1898

[Report No. 1800]

AN ACT

To amend the Communications Act of 1934
with respect to the procedure in obtaining a
license and for rehearings under such Act.

AUGUST 20, 1959

Referred to the Committee on Interstate and Foreign
Commerce

JUNE 13, 1960

Reported with amendments, committed to the Com-
mittee of the Whole House on the State of the
Union, and ordered to be printed

[COMMITTEE PRINT]

JUNE 3, 1960

**PROPOSED SUBSTITUTE FOR S. 1898 AS PASSED BY THE
SENATE**

**86TH CONGRESS
2D SESSION**

S. 1898

IN THE HOUSE OF REPRESENTATIVES

AUGUST 20, 1959

Referred to the Committee on Interstate and Foreign Commerce

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such Act.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That section 309 of the Communications Act of 1934 (47~~
4 ~~U.S.C. 309) is amended to read as follows:~~

1 "ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS
2 ATTACHED TO LICENSES

3 "SEC. 309. (a) (1) No application provided for in sec-
4 tions 308, 310(b), and 325(b) for an instrument of author-
5 ization or any station in the broadcasting or common car-
6 rier services or for any station within the scope of subsection
7 (c) shall be granted by the Commission earlier than thirty
8 days following issuance of public notice by the Commission
9 of the acceptance for filing of such application or of any sub-
10 stantial amendment thereof: *Provided*, That this requirement
11 shall not apply to any minor amendment of any such appli-
12 cation or to any application for (A) minor change in the
13 facilities of an authorized station, (B) consent to an invol-
14 untary assignment or transfer under section 310(b) or to
15 an assignment or transfer thereunder which does not involve
16 a substantial change in ownership or control, (C) license un-
17 der section 319(c) or, pending application for or grant of
18 such license, any special or temporary authorization to permit
19 interim operation to facilitate completion of authorized con-
20 struction or to provide substantially the same service as would
21 be authorized by such license, (D) extension of time to com-
22 plete construction of authorized facilities, (E) authorization
23 of facilities for remote pickups, studio links and similar
24 facilities for use in the operation of a broadcast station, or (F)
25 authorizations pursuant to section 325(b) where the pro-

1 grams to be transmitted are special events not of a continuing
2 nature, or ~~(G)~~ special temporary authorization for non-
3 broadcast operation not to exceed thirty days where no
4 application for regular operation is contemplated to be filed
5 or pending the filing of an application for such regular
6 operation or ~~(H)~~ authorization under any of the proviso
7 clauses of section 308(a).

8 “(2) Any party in interest may file a petition to deny
9 any application or amendment thereof to which the require-
10 ment of paragraph ~~(1)~~ of this subsection applies at any time
11 prior to the day of Commission grant thereof without hearing
12 or formal designation thereof for hearing: *Provided, That,*
13 with respect to any classification of applications, the Commis-
14 sion from time to time by rule may specify a shorter period
15 (no less than thirty days following the issuance of public
16 notice by the Commission of the acceptance for filing of such
17 application or of any substantial amendment thereof), which
18 shorter period shall be reasonably related to the time when
19 the applications would normally be reached for processing.
20 Such petition shall be served on the applicant and shall con-
21 tain specific allegations of fact sufficient to show that the
22 petitioner is a party in interest and that a grant thereof would
23 be prima facie inconsistent with subsection ~~(b)~~. Such alle-
24 gations of fact shall, except for those of which official notice
25 may be taken, be supported by affidavit of a person or per-

1 sons with personal knowledge thereof. The applicant shall
2 be given the opportunity to file a reply in which allegations
3 of fact or denials thereof shall similarly be supported by
4 affidavit. If the Commission finds on the basis of the appli-
5 cation, the pleadings filed, or other matters which it may offi-
6 cially notice that there are no substantial and material ques-
7 tions of fact and that a grant of the application would be
8 consistent with subsection (b), it shall make the grant, deny
9 the petition, and issue a concise statement of the reasons for
10 denying the petition which shall dispose of each substantial
11 question presented thereby. If a substantial and material
12 question of fact is presented or if the Commission for any
13 other reason is unable to find that grant of the application
14 would be consistent with subsection (b), it shall proceed as
15 provided in subsection (c).

16 “(b) Whether or not a petition to deny is filed under
17 subsection (a), the Commission shall examine each applica-
18 tion provided for in section 308. If upon examination of
19 any such application provided for in section 308 and upon
20 consideration of any such petition and any reply thereto or
21 such other matters as the Commission may officially notice
22 the Commission shall find that public interest, convenience,
23 and necessity would be served by the granting thereof, it
24 shall grant such application.

25 “(c) If upon examination of any such application, peti-

tion to deny or reply thereto or such other matters as the Commission may officially notice the Commission is unable to make the finding specified in subsection (b), it shall formally designate the application for hearing on the ground or reasons then obtaining and shall forthwith notify the applicant and all other known parties in interest of such action and the grounds and reasons therefor, specifying with particularity the matters and things in issue but not including issues or requirements phrased generally: *Provided, That,* if the Commission finds that by first giving the applicant and other known parties in interest notice of all objections to such application and an opportunity to reply thereto a determination of the application may be expedited, it shall forthwith give such notice and opportunity for reply before formally designating the application for hearing. The parties in interest, if any, who are not notified by the Commission of its action with respect to a particular application, may acquire the status of a party to the proceeding thereon by filing a petition for intervention showing the basis for their interest at any time not less than ten days prior to the date of hearing. Any hearing subsequently held upon such application shall be a full hearing in which the applicant and all other parties in interest shall be permitted to participate. The burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant, except that with respect

1 to any issue presented by a petition to deny or a petition
2 to enlarge the issues, such burdens shall be as determined by
3 the Commission.

4 “(d) When an application subject to subsection (a)
5 has been filed, the Commission, notwithstanding the require-
6 ments thereof, may, if otherwise authorized by law and if it
7 finds that there are extraordinary circumstances requiring
8 emergency operations in the public interest and that delay in
9 the institution of such emergency operations would seriously
10 prejudice the public interest, grant a temporary authoriza-
11 tion, accompanied by a statement of its reasons therefor, to
12 permit such emergency operations for a period not exceeding
13 ninety days, and upon making like findings may extend such
14 temporary authorization for one additional period not to
15 exceed ninety days. When any such grant is made, the Com-
16 mission shall give expeditious treatment to any timely filed
17 petition to deny such application and to any petition for
18 rehearing of such grant filed under section 405.

19 “(e) The stations other than in the broadcasting or
20 common carrier service referred to in subsection (a) are (1)
21 fixed point-to-point microwave stations, but not including
22 control and relay stations used as integral parts of mobile
23 radio systems, (2) industrial radio positioning stations for
24 which frequencies are assigned on an exclusive basis, (3)
25 aeronautical en route stations, (4) aeronautical advisory

1 stations; ~~(5)~~ airdrome control stations; ~~(6)~~ aeronautical
 2 fixed stations; and ~~(7)~~ such other stations or classes of sta-
 3 tions as the Commission by rule provides.

4 “~~(f)~~ The Commission is authorized to adopt by rule
 5 reasonable classifications of applications and amendments in
 6 order to effectuate the purposes of this section.

7 “~~(g)~~ Such station licenses as the Commission may grant
 8 shall be in such general form as it may prescribe, but each
 9 license shall contain, in addition to other provisions, a state-
 10 ment of the following conditions to which such license shall
 11 be subject: ~~(1)~~ The station license shall not vest in the
 12 licensee any right to operate the station nor any right in the
 13 use of the frequencies designated in the license beyond the
 14 term thereof nor in any other manner than authorized
 15 therein; ~~(2)~~ neither the license nor the right granted there-
 16 under shall be assigned or otherwise transferred in violation
 17 of this Act; ~~(3)~~ every license issued under this Act shall be
 18 subject in terms to the right of use or control conferred by
 19 section 606 hereof.”

20 SEC. 2. Section 319(c) of the Communications Act of
 21 1934 (~~47 U.S.C. 319(c)~~) is amended by striking out “and
 22 ~~(e)~~” and inserting in lieu thereof “~~(c)~~, ~~(d)~~, and ~~(e)~~”.

23 SEC. 3. Section 405 of the Communications Act of 1934
 24 (~~47 U.S.C. 405~~) is amended—

1 ~~(1) by striking out “and party” in the first sentence~~
2 ~~and inserting in lieu thereof “any party”, and~~

3 (2) by inserting after the fourth sentence a new
4 sentence as follows: "The Commission shall enter an
5 order, with a concise statement of the reasons therefor,
6 denying a petition for rehearing or granting such peti-
7 tion, in whole or in part, and ordering such further pro-
8 ceedings as may be appropriate: *Provided*, That in any
9 case where such petition relates to an instrument of
10 authorization granted without a hearing, the Commis-
11 sion shall take such action within ninety days of the
12 filing of such petition."

13 *SHORT TITLE*

14 *SECTION 1. This Act may be cited as the “Communica-*
15 *tions Act Amendments, 1960”.*

16 *CONDITIONAL GRANTS*

17 SEC. 2. Subsection (d) of section 307 of the Commu-
18 nications Act of 1934 (47 U.S.C. 307) is amended by
19 adding at the end thereof a new sentence as follows: "Con-
20 sistently with the foregoing provisions of this subsection, the
21 Commission may by rule prescribe the period or periods for
22 which licenses shall be granted and renewed for particular
23 classes of stations, but the Commission may not adopt or
24 follow any rule which would preclude it, in any case involving
25 a station of a particular class, from granting or renewing a

1 license for a shorter period than that prescribed for stations
 2 of such class if, in its judgment, public interest, convenience,
 3 or necessity would be served by such action."

4 PRE-GRANT PROCEDURE

5 SEC. 3. (a) Section 309 of the Communications Act of
 6 1934 (47 U.S.C. 309) is amended to read as follows:

7 "ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS

8 ATTACHED TO LICENSES

9 "SEC. 309. (a) Subject to the provisions of this section,
 10 the Commission shall determine, in the case of each applica-
 11 tion filed with it to which section 308 applies, whether the
 12 public interest, convenience, and necessity will be served by
 13 the granting of such application, and, if the Commission,
 14 upon examination of such application and upon considera-
 15 tion of such other matters as the Commission may officially
 16 notice, shall find that public interest, convenience, and neces-
 17 sity would be served by the granting thereof, it shall grant
 18 such application.

19 "(b) Except as provided in subsection (c) of this sec-
 20 tion, no such application—

21 "(1) for an instrument of authorization in the case
 22 of a station in the broadcasting or common carrier serv-
 23 ices, or

1 “(2) for an instrument of authorization in the case
2 of a station in any of the following categories:

3 “(A) fixed point-to-point microwave stations
4 (exclusive of control and relay stations used as in-
5 tegral parts of mobile radio systems),

6 “(B) industrial radio positioning stations for
7 which frequencies are assigned on an exclusive basis,

8 “(C) aeronautical en route stations,

9 “(D) aeronautical advisory stations,

10 “(E) airdrome control stations,

11 “(F) aeronautical fixed stations, and

12 “(G) such other stations or classes of stations,
13 not in the broadcasting or common carrier services,
14 as the Commission shall by rule prescribe,

15 shall be granted by the Commission earlier than thirty days
16 following issuance of public notice by the Commission of the
17 acceptance for filing of such application or of any substantial
18 amendment thereof.

19 “(c) Subsection (b) of this section shall not apply—

20 “(1) to any minor amendment of an application to
21 which such subsection is applicable, or

22 “(2) to any application for—

23 “(A) a minor change in the facilities of an
24 authorized station,

25 “(B) consent to an involuntary assignment or

1 *transfer under section 310(b) or to an assignment*
2 *or transfer thereunder which does not involve a sub-*
3 *stantial change in ownership or control,*

4 “(C) *a license under section 319(c) or, pend-*
5 *ing application for or grant of such license, any*
6 *special or temporary authorization to permit interim*
7 *operation to facilitate completion of authorized con-*
8 *struction or to provide substantially the same service*
9 *as would be authorized by such license,*

10 “(D) *extension of time to complete construction*
11 *of authorized facilities,*

12 “(E) *an authorization of facilities for remote*
13 *pickups, studio links and similar facilities for use*
14 *in the operation of a broadcast station,*

15 “(F) *authorizations pursuant to section 325(b)*
16 *where the programs to be transmitted are special*
17 *events not of a continuing nature,*

18 “(G) *a special temporary authorization for*
19 *nonbroadcast operation not to exceed thirty days*
20 *where no application for regular operation is con-*
21 *templated to be filed or pending the filing of an*
22 *application for such regular operation, or*

23 “(H) *an authorization under any of the proviso*
24 *clauses of section 308(a).*

25 “(d) (1) *Any party in interest may file with the Com-*

1 mission a petition to deny any application (whether as
2 originally filed or as amended) to which subsection (b) of
3 this section applies at any time prior to the day of Com-
4 mission grant thereof without hearing or the day of formal
5 designation thereof for hearing; except that with respect to
6 any classification of applications, the Commission from time
7 to time by rule may specify a shorter period (no less than
8 thirty days following the issuance of public notice by the
9 Commission of the acceptance for filing of such application
10 or of any substantial amendment thereof), which shorter
11 period shall be reasonably related to the time when the appli-
12 cations would normally be reached for processing. The
13 petitioner shall serve a copy of such petition on the applicant.
14 The petition shall contain specific allegations of fact suffi-
15 cient to show that the petitioner is a party in interest and
16 that a grant of the application would be prima facie incon-
17 sistent with subsection (a). Such allegations of fact shall,
18 except for those of which official notice may be taken, be
19 supported by affidavit of a person or persons with personal
20 knowledge thereof. The applicant shall be given the oppor-
21 tunity to file a reply in which allegations of fact or denials
22 thereof shall similarly be supported by affidavit.

23 “(2) If the Commission finds on the basis of the appli-
24 cation, the pleadings filed, or other matters which it may offi-
25 cially notice that there are no substantial and material ques-

1 tions of fact and that a grant of the application would be
2 consistent with subsection (a), it shall make the grant,
3 deny the petition, and issue a concise statement of the reasons
4 for denying the petition, which statement shall dispose of all
5 substantial issues raised by the petition. If a substantial and
6 material question of fact is presented or if the Commission for
7 any reason is unable to find that grant of the application
8 would be consistent with subsection (a), it shall proceed as
9 provided in subsection (e).

10 “(e) If, in the case of any application to which subsection
11 (a) of this section applies, a substantial and material question
12 of fact is presented or the Commission for any reason is un-
13 able to make the finding specified in such subsection, it shall
14 formally designate the application for hearing on the ground
15 or reasons then obtaining and shall forthwith notify the
16 applicant and all other known parties in interest of such
17 action and the grounds and reasons therefor, specifying
18 with particularity the matters and things in issue but
19 not including issues or requirements phrased generally.
20 When the Commission has so designated an application
21 for hearing the parties in interest, if any, who are not
22 notified by the Commission of such action may acquire the
23 status of a party to the proceeding thereon by filing a peti-
24 tion for intervention showing the basis for their interest at
25 any time not less than ten days prior to the date of hearing.

1 *Any hearing subsequently held upon such application shall be*
2 *a full hearing in which the applicant and all other parties in*
3 *interest shall be permitted to participate. The burden of*
4 *proceeding with the introduction of evidence and the burden*
5 *of proof shall be upon the applicant, except that with respect*
6 *to any issue presented by a petition to deny or a petition*
7 *to enlarge the issues, such burdens shall be as determined by*
8 *the Commission.*

9 “(f) *When an application subject to subsection (b)*
10 *has been filed, the Commission, notwithstanding the require-*
11 *ments of such subsection, may, if the grant of such applica-*
12 *tion is otherwise authorized by law and if it finds that there*
13 *are extraordinary circumstances requiring emergency opera-*
14 *tions in the public interest and that delay in the institution of*
15 *such emergency operations would seriously prejudice the public*
16 *interest, grant a temporary authorization, accompanied by a*
17 *statement of its reasons therefor, to permit such emergency*
18 *operations for a period not exceeding ninety days, and upon*
19 *making like findings may extend such temporary authoriza-*
20 *tion for one additional period not to exceed ninety days.*
21 *When any such grant of a temporary authorization is made,*
22 *the Commission shall give expeditious treatment to any timely*
23 *filed petition to deny such application and to any petition for*
24 *rehearing of such grant filed under section 405.*

25 “(g) *The Commission is authorized to adopt reasonable*

1 classifications of applications and amendments in order to
2 effectuate the purposes of this section.

3 “(h) Such station licenses as the Commission may grant
4 shall be in such general form as it may prescribe, but each
5 license shall contain, in addition to other provisions, a state-
6 ment of the following conditions to which such license shall
7 be subject: (1) The station license shall not vest in the
8 licensee any right to operate the station nor any right in the
9 use of the frequencies designated in the license beyond the
10 term thereof nor in any other manner than authorized
11 therein; (2) neither the license nor the right granted there-
12 under shall be assigned or otherwise transferred in violation
13 of this Act; (3) every license issued under this Act shall be
14 subject in terms to the right of use or control conferred by
15 section 606 of this Act.”

16 (b) Section 319(c) of the Communications Act of
17 1934 (47 U.S.C. 319(c)) is amended by striking out “and
18 (c)” and inserting in lieu thereof “(c), (d), (e), (f), and
19 (g)”.

20 (c) Section 405 of the Communications Act of 1934
21 (47 U.S.C. 405) is amended—

22 (1) by striking out “and party” in the first sentence
23 and inserting in lieu thereof “any party”, and

24 (2) by inserting after the fourth sentence a new
25 sentence as follows: “The Commission shall enter an

1 order, with a concise statement of the reasons therefor,
2 denying a petition for rehearing or granting such peti-
3 tion, in whole or in part, and ordering such further pro-
4 ceedings as may be appropriate: Provided, That in any
5 case where such petition relates to an instrument of
6 authorization granted without a hearing, the Commis-
7 sion shall take such action within ninety days of the
8 filing of such petition."

9 (d)(1) Subsections (a) and (b) of this section shall
10 take effect 90 days after the date of the enactment of this Act.

11 (2) Section 309 of the Communications Act of 1934
12 (as amended by subsection (a) of this section) shall apply to
13 any application to which section 308 of such Act applies
14 (A) which is filed on or after the effective date of subsection
15 (a) of this section, (B) which is filed before such effective
16 date, but is substantially amended on or after such effective
17 date, or (C) which is filed before such effective date and
18 is not substantially amended on or after such effective date,
19 but with respect to which the Commission by rule provides
20 reasonable opportunity to file petitions to deny in accordance
21 with section 309 of such Act (as amended by subsection (a)
22 of this section).

23 (3) Section 309 of the Communications Act of 1934,
24 as in effect immediately before the effective date of subsection
25 (a) of this section, shall, on and after such effective date,

1 apply only to applications to which section 308 of such Act
 2 apply which are filed before such effective date and not sub-
 3 stantially amended after such effective date and with respect
 4 to which the Commission does not permit petitions to deny to
 5 be filed as provided in clause (C) of paragraph (2) of this
 6 subsection.

7 (4) The amendment made by paragraph (2) of sub-
 8 section (c) of this section shall only apply to petitions for
 9 rehearing filed on or after the date of the enactment of this
 10 Act.

11 LOCAL NOTICE AND LOCAL HEARINGS; PAY-OFFS

12 SEC. 4. (a) Section 311 of the Communications Act
 13 of 1934 (47 U.S.C. 311) is amended to read as follows:

14 "SPECIAL REQUIREMENTS WITH RESPECT TO CERTAIN
 15 APPLICATIONS IN THE BROADCASTING SERVICE

16 "SEC. 311. (a) When there is filed with the Commis-
 17 sion any application to which section 309(b)(1) applies,
 18 for an instrument of authorization for a station in the broad-
 19 casting service, the applicant—

20 "(1) shall give notice of such filing in the principal
 21 area which is served or is to be served by the station; and

22 "(2) if the application is formally designated for
 23 hearing in accordance with section 309, shall give notice
 24 of such hearing in such area at least ten days before com-
 25 mencement of such hearing.

1 *The Commission shall by rule prescribe the form and content*
2 *of the notices to be given in compliance with this subsection,*
3 *and the manner and frequency with which such notices shall*
4 *be given.*

5 “(b) *Hearings referred to in subsection (a) may be*
6 *held at such places as the Commission shall determine to be*
7 *appropriate, and in making such determination in any case*
8 *the Commission shall consider whether the public interest,*
9 *convenience, or necessity will be served by conducting the*
10 *hearing at a place in, or in the vicinity of, the principal area*
11 *to be served by the station involved.*

12 “(c) (1) *If there are pending before the Commission*
13 *two or more applications for a permit for construction of a*
14 *broadcasting station, only one of which can be granted, it shall*
15 *be unlawful, without approval of the Commission, for the*
16 *applicants or any of them to effectuate an agreement whereby*
17 *one or more of such applicants withdraws his or their appli-*
18 *cation or applications.*

19 “(2) *The request for Commission approval in any such*
20 *case shall be made in writing jointly by all the parties to*
21 *the agreement. Such request shall contain or be accompanied*
22 *by full information with respect to the agreement, set forth in*
23 *such detail, form, and manner as the Commission shall by*
24 *rule require.*

25 “(3) *The Commission shall approve the agreement only*

1 if it determines that the agreement is consistent with the public
2 interest, convenience, or necessity. If the agreement contem-
3 plates the making of any direct or indirect payment to any
4 party thereto in consideration of his withdrawal of his appli-
5 cation, the Commission may determine the agreement to be
6 consistent with the public interest, convenience, or necessity
7 only if the amount or value of such payment, as determined by
8 the Commission, is not in excess of the aggregate amount deter-
9 mined by the Commission to have been legitimately and
10 prudently expended and to be expended by such applicant in
11 connection with preparing, filing, and advocating the grant-
12 ing of his application.

13 “(4) For the purposes of this subsection an application
14 shall be deemed to be ‘pending’ before the Commission from
15 the time such application is filed with the Commission until
16 an order of the Commission granting or denying it is no
17 longer subject to rehearing by the Commission or to review
18 by any court.”

19 (b) Section 313 of such Act (47 U.S.C. 313) is
20 amended—

21 (1) by inserting after the word “LAWS” in the heading
22 of such section the following: “; REFUSAL OF LICENSES AND
23 PERMITS IN CERTAIN CASES”; and

1 (2) by inserting “(a)” after “SEC. 313.” and adding
2 at the end of such section the following subsection:

3 “(b) The Commission is hereby directed to refuse a sta-
4 tion license and/or the permit hereinafter required for the
5 construction of a station to any person (or to any person
6 directly or indirectly controlled by such person) whose license
7 has been revoked by a court under this section.”

8 *SUSPENSION*

9 SEC. 5. (a) Section 312 of the Communications Act of
10 1934 (47 U.S.C. 312) is amended to read as follows:

11 "ADMINISTRATIVE SANCTIONS

12 “SEC. 312. (a) The Commission may revoke any station
13 license or construction permit—

14 “(1) for false statements knowingly made either in
15 the application or in any statement of fact which may
16 be required pursuant to section 308;

17 “(2) because of conditions coming to the attention
18 of the Commission which would warrant it in refusing to
19 grant a license or permit on an original application;

20 “(3) for willful or repeated failure to operate sub-
21 stantially as set forth in the license;

22 “(4) for willful or repeated violation of, or willful
23 or repeated failure to observe any provision of this Act
24 or any rule or regulation of the Commission authorized
25 by this Act or by a treaty ratified by the United States;

1 “(5) for violation of or failure to observe any cease
2 and desist order issued by the Commission under this
3 section; or

4 “(6) for violation of section 1304, 1343, or 1464
5 of title 18 of the United States Code.

6 “(b) Where any person (1) has failed to operate sub-
7 stantially as set forth in a license, (2) has violated or
8 failed to observe any of the provisions of this Act, or section
9 1304, 1343, or 1464 of title 18 of the United States Code,
10 or (3) has violated or failed to observe any rule or regulation
11 of the Commission authorized by this Act or by a treaty rati-
12 fied by the United States, the Commission may order such
13 person to cease and desist from such action.

14 “(c) The Commission may suspend any station license
15 for a period of not more than ten consecutive days—

16 “(1) for false statements made either in the ap-
17 plication or in any statement of fact which may be
18 required pursuant to section 308;

19 “(2) because of conditions coming to the attention
20 of the Commission which would warrant it in refusing to
21 grant a license on an original application;

22 “(3) for failure to operate substantially as set forth
23 in the license;

24 “(4) for violation of or failure to observe any pro-
25 vision of this Act or any rule or regulation of the Com-

1 mission authorized by this Act or by a treaty ratified
2 by the United States;

3 “(5) for violation of or failure to observe any cease
4 and desist order issued by the Commission under this
5 section; or

6 “(6) for violation of section 1304, 1343, or 1464
7 of title 18 of the United States Code.

8 “(d) Before revoking a license or permit pursuant
9 to subsection (a), issuing a cease and desist order pursuant
10 to subsection (b), or suspending a license pursuant to sub-
11 section (c), the Commission shall serve upon the licensee,
12 permittee, or person involved an order to show cause why
13 an order of revocation or suspension or a cease and desist
14 order, as the case may be, should not be issued. Any such
15 order to show cause shall contain a statement of the matters
16 with respect to which the Commission is inquiring and
17 shall call upon the licensee, permittee, or person to appear
18 before the Commission at a time and place stated in the
19 order, but in no event less than thirty days after the receipt
20 of such order, and give evidence upon the matter specified
21 therein; except that where safety of life or property is
22 involved, the Commission may provide in the order for a
23 shorter period. If after hearing, or a waiver thereof, the
24 Commission determines that an order of revocation or sus-
25 pension or a cease and desist order should issue, it shall

1 issue such order, which shall include a statement of the find-
2 ings of the Commission and the grounds and reasons therefor
3 and specify the effective date of the order, and shall cause
4 the same to be served on said licensee, permittee, or person.

5 “(e) In any case where a hearing is conducted pursuant
6 to the provisions of this section, both the burden of proceed-
7 ing with the introduction of evidence and the burden of
8 proof shall be upon the Commission.

9 “(f) The provisions of section 9(b) of the Administra-
10 tive Procedure Act which apply with respect to the institution
11 of any proceeding for the suspension or revocation of a
12 license or permit shall apply also with respect to the institu-
13 tion, under this section, of any proceeding for the issuance
14 of a cease and desist order.”

15 (b) The first sentence of section 307(d) of the Commu-
16 nications Act of 1934 (47 U.S.C. 307(d)) is amended by
17 inserting “suspended or” before “revoked”.

18 (c) The second sentence of section 308(b) of such Act
19 (47 U.S.C. 308(b)) is amended by inserting “suspended or”
20 before “revoked”.

21 (d) Section 402(b)(5) of such Act (47 U.S.C.
22 402(b)(5)) is amended by inserting “, suspended,” after
23 “modified”.

1 PROVISIONS REQUIRING ANNOUNCEMENTS AND DISCLO-
2 SURE OF CERTAIN PAYMENTS WITH RESPECT TO
3 MATTER BROADCAST

4 SEC. 6. (a) Section 317 of the Communications Act of
5 1934 (47 U.S.C. 317) is amended to read as follows:

6 "ANNOUNCEMENT WITH RESPECT TO CERTAIN MATTER
7 BROADCAST

8 "SEC. 317. (a)(1) All matter broadcast by any radio
9 station for which any money, service or other valuable con-
10 sideration is directly or indirectly paid, or promised to or
11 charged or accepted by, the station so broadcasting, from any
12 person, shall, at the time the same is so broadcast, be an-
13 nounced as paid for or furnished, as the case may be, by
14 such person: Provided, That 'service or other valuable con-
15 sideration' shall not include any service or property furnished
16 without charge or at a nominal charge for use on, or in con-
17 nection with, a broadcast unless it is so furnished in consid-
18 eration for an identification in a broadcast of any person,
19 product, service, trademark, or brand name beyond an iden-
20 tification which is reasonably related to the use of such service
21 or property on the broadcast.

22 "(2) Nothing in this section shall preclude the Commis-
23 sion from requiring that an appropriate announcement shall
24 be made at the time of the broadcast in the case of any political
25 program or any program involving the discussion of any con-

1 *troversial issue for which any films, records, transcriptions,*
2 *talent, scripts, or other material or service of any kind have*
3 *been furnished, without charge or at a nominal charge, di-*
4 *rectly or indirectly, as an inducement to the broadcast of such*
5 *program.*

6 “(b) *In any case where a report has been made to a*
7 *radio station, as required by section 508 of this Act, of*
8 *circumstances which would have required an announcement*
9 *under this section had the consideration been received by such*
10 *radio station, an appropriate announcement shall be made*
11 *by such radio station.*

12 “(c) *The licensee of each radio station shall exercise*
13 *reasonable diligence to obtain from its employees, and from*
14 *other persons with whom it deals directly in connection with*
15 *any program or program matter for broadcast, information*
16 *to enable such licensee to make the announcement required*
17 *by this section.*

18 “(d) *The Commission may waive the requirement of an*
19 *announcement as provided in this section in any case or class*
20 *of cases with respect to which it determines that the public*
21 *interest, convenience, or necessity does not require the broad-*
22 *casting of such announcement.*

23 “(e) *The Commission shall prescribe appropriate rules*
24 *and regulations to carry out the provisions of this section.”*

25 (b) *Title V of the Communications Act of 1934 (47*

1 *U.S.C., subchapter V) is amended by adding at the end*
2 *thereof the following section:*

3 “DISCLOSURE OF CERTAIN PAYMENTS

4 “SEC. 508. (a) *Subject to subsection (d), any em-*
5 *ployee of a radio station who accepts or agrees to accept from*
6 *any person (other than such station), or any person (other*
7 *than such station) who pays or agrees to pay such employee,*
8 *any money, service or other valuable consideration for the*
9 *broadcast of any matter over such station shall, in advance of*
10 *such broadcast, disclose the fact of such acceptance or agree-*
11 *ment to such station.*

12 “(b) *Subject to subsection (d), any person who, in con-*
13 *nection with the production or preparation of any program*
14 *or program matter which is intended for broadcasting over*
15 *any radio station, accepts or agrees to accept, or pays or*
16 *agrees to pay, any money, service or other valuable consid-*
17 *eration for the inclusion of any matter as a part of such*
18 *program or program matter, shall, in advance of such broad-*
19 *cast, disclose the fact of such acceptance or payment or agree-*
20 *ment to the payee's employer, or to the person for whom such*
21 *program or program matter is being produced, or to the*
22 *licensee of such station over which such program is broadcast.*

23 “(c) *Subject to subsection (d), any person who sup-*
24 *plies to any other person any program or program matter*
25 *which is intended for broadcasting over any radio station*

1 shall, in advance of such broadcast, disclose to such other
2 person any information of which he has knowledge, or which
3 has been disclosed to him, as to any money, service or other
4 valuable consideration which any person has paid or ac-
5 cepted, or has agreed to pay or accept, for the inclusion of
6 any matter as a part of such program or program matter.

7 “(d) The provisions of this section requiring the dis-
8 closure of information shall not apply in any case where,
9 because of a waiver made by the Commisison under section
10 317(d), an announcement is not required to be made under
11 section 317. The inclusion in the program of the announce-
12 ment required by section 317 shall constitute the disclosure
13 required by this section.

14 “(e) The term ‘service or other valuable consideration’
15 as used in this section shall not include any service or prop-
16 erty furnished without charge or at a nominal charge for use
17 on, or in connertion with, a broadcast, or for use on a
18 program which is intended for broadcasting over any
19 radio station, unless it is so furnished in consideraton for
20 an identification in such broadcast or in such program of any
21 person, product, service, trademark, or brand name beyond
22 an identification which is reasonably related to the use of such
23 service or property in such broadcast or such program.

24 “(f) Any person who violates any provision of this

1 section shall, for each such violation, be fined not more than
2 \$10,000 or imprisoned not more than one year, or both."

3 *FORFEITURE PROVISIONS RELATING TO BROADCAST*
4 *LICENSEES*

5 *SEC. 7. (a) Section 503 of the Communications Act of*
6 *1934 (47 U.S.C. 503) is amended (1) by striking out the*
7 *center heading and inserting in lieu thereof "Forfeitures";*
8 *(2) by inserting "(a)" after "SEC. 503."; and (3) by*
9 *adding at the end thereof the following subsection:*

10 *"(b) In any case where the licensee or permittee of a*
11 *broadcast station has failed to operate his station substantially*
12 *as set forth in his license, or has violated or failed to observe*
13 *any of the provisions of this Act or any rule or regulation*
14 *of the Commission authorized by this Act or by any treaty*
15 *ratified by the United States, or has violated or failed*
16 *to observe any cease and desist order issued by the Com-*
17 *mission, the Commission may order such licensee or*
18 *permittee to forfeit to the United States a sum not to exceed*
19 *\$1,000 for each day during which the Commission finds that*
20 *such violation or failure has occurred. Such forfeiture shall*
21 *be in addition to any other penalty provided by this Act."*

22 *(b) Section 504(b) of such Act is amended by striking*
23 *out "section 507" and inserting in lieu thereof "sections*
24 *503(b) and 507".*

1 *PROHIBITIONS RELATING TO CONTESTS OF INTELLECTUAL*
2 *KNOWLEDGE, INTELLECTUAL SKILL, OR CHANCE*
3 *WHICH ARE BROADCAST*

4 *SEC. 8. Title V of the Communications Act of 1934 (47*
5 *U.S.C., subchapter V), as amended by section 6(b) of this*
6 *Act, is amended by adding at the end thereof the following*
7 *section:*

8 *"PROHIBITED PRACTICES IN CASE OF CONTESTS OF IN-*
9 *TELLECTUAL KNOWLEDGE, INTELLECTUAL SKILL, OR*
10 *CHANCE*

11 *"SEC. 509. (a) It shall be unlawful for any person,*
12 *with intent to deceive the listening or viewing public—*

13 *"(1) To supply to any contestant in a purportedly*
14 *bona fide contest of intellectual knowledge or intellectual*
15 *skill any special and secret assistance whereby the out-*
16 *come of such contest will be in whole or in part pre-*
17 *arranged or predetermined.*

18 *"(2) By means of persuasion, bribery, intimidat-*
19 *ion, or otherwise, to induce or cause any contestant in*
20 *a purportedly bona fide contest of intellectual knowledge*
21 *or intellectual skill to refrain in any manner from using*
22 *or displaying his knowledge or skill in such contest,*
23 *whereby the outcome thereof will be in whole or in part*
24 *prearranged or predetermined.*

1 “(3) To engage in any artifice or scheme for the
2 purpose of prearranging or predetermining in whole or
3 in part the outcome of a purportedly bona fide contest of
4 intellectual knowledge, intellectual skill, or chance.

5 “(4) To produce or participate in the production
6 for broadcasting of, to broadcast or participate in the
7 broadcasting of, to offer to a licensee for broadcasting,
8 or to sponsor, any radio program, knowing or having
9 reasonable ground for believing that, in connection with
10 a purportedly bona fide contest of intellectual knowledge,
11 intellectual skill, or chance constituting any part of such
12 program, any person has done or is going to do any
13 act or thing referred to in paragraph (1), (2), or (3)
14 of this subsection.

15 “(5) To conspire with any other person or per-
16 sons to do any act or thing prohibited by paragraph
17 (1), (2), (3), or (4) of this subsection, if one or more
18 of such persons do any act to effect the object of such
19 conspiracy.

20 “(b) For the purposes of this section—

21 “(1) The term ‘contest’ means any contest broad-
22 cast by a radio station in connection with which any
23 money or any other thing of value is offered as a prize or
24 prizes to be paid or presented by the program sponsor

1 *or by any other person or persons, as announced in the*
2 *course of the broadcast.*

3 “(2) The term ‘the listening or viewing public’
4 means those members of the public who, with the aid of
5 radio receiving sets, listen to or view programs broad-
6 cast by radio stations.

7 “(c) Whoever violates subsection (a) shall be fined
8 not more than \$10,000 or imprisoned not more than one
9 year, or both.”

Amend the title so as to read: "An Act to promote the public interest by amending the Communications Act of 1934, to provide a pre-grant procedure in case of certain applications; to impose limitations on payoffs between applicants; to grant authority to suspend station licenses; to require disclosure of payments made for the broadcasting of certain matter; to grant authority to impose forfeitures in the broadcast service; and to prohibit deceptive practices in contests of intellectual knowledge, skill, or chance; and for other purposes."

Passed the Senate August 19 (legislative day, August 18), 1959.

Attest: FELTON M. JOHNSTON,
Secretary.

[COMMITTEE PRINT]

JUNE 3, 1960

88TH CONGRESS
2D SESSION

S. 1898

AN ACT

To amend the Communications Act of 1934
with respect to the procedure in obtaining a
license and for rehearings under such Act.

AUGUST 20, 1959

Referred to the Committee on Interstate and Foreign
Commerce

86TH CONGRESS
1ST SESSION

S. 1898

IN THE HOUSE OF REPRESENTATIVES

AUGUST 20, 1959

Referred to the Committee on Interstate and Foreign Commerce

AN ACT

To amend the Communications Act of 1934 with respect to the procedure in obtaining a license and for rehearings under such Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 309 of the Communications Act of 1934 (47
4 U.S.C. 309) is amended to read as follows:

5 "ACTION UPON APPLICATIONS; FORM OF AND CONDITIONS
6 ATTACHED TO LICENSES

7 "SEC. 309. (a) (1) No application provided for in sec-
8 tions 308, 310 (b), and 325 (b) for an instrument of author-
9 ization or any station in the broadcasting or common car-
10 rier services or for any station within the scope of subsection

1 (e) shall be granted by the Commission earlier than thirty
2 days following issuance of public notice by the Commission
3 of the acceptance for filing of such application or of any sub-
4 stantial amendment thereof: *Provided*, That this requirement
5 shall not apply to any minor amendment of any such appli-
6 cation or to any application for (A) minor change in the
7 facilities of an authorized station, (B) consent to an invol-
8 untary assignment or transfer under section 310(b) or to
9 an assignment or transfer thereunder which does not involve
10 a substantial change in ownership or control, (C) license un-
11 der section 319(c) or, pending application for or grant of
12 such license, any special or temporary authorization to permit
13 interim operation to facilitate completion of authorized con-
14 struction or to provide substantially the same service as would
15 be authorized by such license, (D) extension of time to com-
16 plete construction of authorized facilities, (E) authorization
17 of facilities for remote pickups, studio links and similar fa-
18 cilities for use in the operation of a broadcast station, or (F)
19 authorizations pursuant to section 325(b) where the pro-
20 grams to be transmitted are special events not of a continuing
21 nature, or (G) special temporary authorization for non-
22 broadcast operation not to exceed thirty days where no
23 application for regular operation is contemplated to be filed
24 or pending the filing of an application for such regular

1 operation or (H) authorization under any of the proviso
2 clauses of section 308 (a).

3 “(2) Any party in interest may file a petition to deny
4 any application or amendment thereof to which the require-
5 ment of paragraph (1) of this subsection applies at any time
6 prior to the day of Commission grant thereof without hearing
7 or formal designation thereof for hearing: *Provided, That,*
8 with respect to any classification of applications, the Commis-
9 sion from time to time by rule may specify a shorter period
10 (no less than thirty days following the issuance of public
11 notice by the Commission of the acceptance for filing of such
12 application or of any substantial amendment thereof), which
13 shorter period shall be reasonably related to the time when
14 the applications would normally be reached for processing.
15 Such petition shall be served on the applicant and shall con-
16 tain specific allegations of fact sufficient to show that the
17 petitioner is a party in interest and that a grant thereof would
18 be prima facie inconsistent with subsection (b). Such alle-
19 gations of fact shall, except for those of which official notice
20 may be taken, be supported by affidavit of a person or per-
21 sons with personal knowledge thereof. The applicant shall
22 be given the opportunity to file a reply in which allegations
23 of fact or denials thereof shall similarly be supported by
24 affidavit. If the Commission finds on the basis of the appli-

1 cation, the pleadings filed, or other matters which it may offi-
2 cially notice that there are no substantial and material ques-
3 tions of fact and that a grant of the application would be
4 consistent with subsection (b), it shall make the grant, deny
5 the petition, and issue a concise statement of the reasons for
6 denying the petition which shall dispose of each substantial
7 question presented thereby. If a substantial and material
8 question of fact is presented or if the Commission for any
9 other reason is unable to find that grant of the application
10 would be consistent with subsection (b), it shall proceed as
11 provided in subsection (c).

12 “(b) Whether or not a petition to deny is filed under
13 subsection (a), the Commission shall examine each applica-
14 tion provided for in section 308. If upon examination of
15 any such application provided for in section 308 and upon
16 consideration of any such petition and any reply thereto or
17 such other matters as the Commission may officially notice
18 the Commission shall find that public interest, convenience,
19 and necessity would be served by the granting thereof, it
20 shall grant such application.

21 “(c) If upon examination of any such application, peti-
22 tion to deny or reply thereto or such other matters as the
23 Commission may officially notice the Commission is unable
24 to make the finding specified in subsection (b); it shall for-
25 mally designate the application for hearing on the ground or

1 reasons then obtaining and shall forthwith notify the appli-
2 cant and all other known parties in interest of such action
3 and the grounds and reasons therefor, specifying with par-
4 ticularity the matters and things in issue but not including
5 issues or requirements phrased generally: *Provided*, That,
6 if the Commission finds that by first giving the applicant and
7 other known parties in interest notice of all objections to such
8 application and an opportunity to reply thereto a determina-
9 tion of the application may be expedited, it shall forthwith
10 give such notice and opportunity for reply before formally
11 designating the application for hearing. The parties in inter-
12 est, if any, who are not notified by the Commission of its
13 action with respect to a particular application, may acquire
14 the status of a party to the proceeding thereon by filing a
15 petition for intervention showing the basis for their interest
16 at any time not less than ten days prior to the date of hearing.
17 Any hearing subsequently held upon such application shall be
18 a full hearing in which the applicant and all other parties in
19 interest shall be permitted to participate. The burden of
20 proceeding with the introduction of evidence and the burden
21 of proof shall be upon the applicant, except that with respect
22 to any issue presented by a petition to deny or a petition
23 to enlarge the issues, such burdens shall be as determined by
24 the Commission.

1 “(d) When an application subject to subsection (a)
2 has been filed, the Commission, notwithstanding the require-
3 ments thereof, may, if otherwise authorized by law and if it
4 finds that there are extraordinary circumstances requiring
5 emergency operations in the public interest and that delay in
6 the institution of such emergency operations would seriously
7 prejudice the public interest, grant a temporary authoriza-
8 tion, accompanied by a statement of its reasons therefor, to
9 permit such emergency operations for a period not exceeding
10 ninety days, and upon making like findings may extend such
11 temporary authorization for one additional period not to
12 exceed ninety days. When any such grant is made, the Com-
13 mission shall give expeditious treatment to any timely filed
14 petition to deny such application and to any petition for
15 rehearing of such grant filed under section 405.

16 “(e) The stations other than in the broadcasting or
17 common carrier service referred to in subsection (a) are (1)
18 fixed point-to-point microwave stations, but not including
19 control and relay stations used as integral parts of mobile
20 radio systems, (2) industrial radio positioning stations for
21 which frequencies are assigned on an exclusive basis, (3)
22 aeronautical en route stations, (4) aeronautical advisory
23 stations, (5) airdrome control stations, (6) aeronautical
24 fixed stations, and (7) such other stations or classes of sta-
25 tions as the Commission by rule provides.

1 “(f) The Commission is authorized to adopt by rule
2 reasonable classifications of applications and amendments in
3 order to effectuate the purposes of this section.

4 “(g) Such station licenses as the Commission may grant
5 shall be in such general form as it may prescribe, but each
6 license shall contain, in addition to other provisions, a state-
7 ment of the following conditions to which such license shall
8 be subject: (1) The station license shall not vest in the
9 licensee any right to operate the station nor any right in the
10 use of the frequencies designated in the license beyond the
11 term thereof nor in any other manner than authorized
12 therein; (2) neither the license nor the right granted there-
13 under shall be assigned or otherwise transferred in violation
14 of this Act; (3) every license issued under this Act shall be
15 subject in terms to the right of use or control conferred by
16 section 606 hereof.”

17 SEC. 2. Section 319 (c) of the Communications Act of
18 1934 (47 U.S.C. 319 (c)) is amended by striking out “and
19 (c)” and inserting in lieu thereof “(c), (d), and (e)”.

20 SEC. 3. Section 405 of the Communications Act of 1934
21 (47 U.S.C. 405) is amended—

22 (1) by striking out “and party” in the first sentence
23 and inserting in lieu thereof “any party”, and

24 (2) by inserting after the fourth sentence a new
25 sentence as follows: “The Commission shall enter an

1 order, with a concise statement of the reasons therefor,
2 denying a petition for rehearing or granting such peti-
3 tion, in whole or in part, and ordering such further pro-
4 ceedings as may be appropriate: *Provided*, That in any
5 case where such petition relates to an instrument of
6 authorization granted without a hearing, the Commis-
7 sion shall take such action within ninety days of the
8 filing of such petition.”

Passed the Senate August 19 (legislative day, August
18), 1959.

Attest:

FELTON M. JOHNSTON,

Secretary.

86TH CONGRESS
1ST SESSION

S. 1898

AN ACT

To amend the Communications Act of 1934 with
respect to the procedure in obtaining a
license and for rehearings under such Act.

AUGUST 20, 1959

Referred to the Committee on Interstate and Foreign
Commerce